IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

CRL.A.No. 1820 of 2003()

AGAINST THE JUDGEMENT/ORDER IN CRLP.305/2003 Dated 27/08/2003
CC.543/1999 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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APPELLANT: COMPLAINANT.

SRINIVAS M.SHETTY,
S/O.MAHALINGA SHETTY, RESIDING AT MUTTA GATE,
MANGALPPADY, KASARAGOD.

BY ADV. SRI.M.SASINDRAN
SRI.M.B.PRAJITH

RESPONDENTS: ACCUSED NO.1.

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1. P.M.HUSSAINKUNHI, S/O.MOIDEENKUNHI,
NEW SUPARI MERCHANT, STALL NO.40, MAIDAN MARKET,
MANGALORE 575 001.

2. STATE OF KERALA REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 26/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.1820 of 2003

Dated this the 26th day of September, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted that the complainant was absent due to unavoidable circumstances.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 29.10.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl